

Serial No. 10/789,962
60246-340

REMARKS

Applicant thanks the Examiner for the remarks and analysis contained in a Non-Final Office Action mailed on October 12, 2006. Claims 1-4 and 12-13 have been amended. Applicant respectfully requests reconsideration of this application.

The Examiner rejected claims 1-4 and 12 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Per the Examiner's suggestion, Applicant has amended claims 1-4 and 12 to recite that "the controller is configured to activate." Therefore, claims 1-4 and 12 are not indefinite.

Claims 1-17 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Reisfeld, et al.* (U.S. Patent No. 6,884,399) in view of either *Goldstein* (U.S. Patent No. 4,210,429) or *Gibson* (U.S. Patent No. 6,869,468). The Examiner argues that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify *Reisfeld, et al.*'s teachings as suggested by either *Goldstein* or *Gibson* to prevent UV light leaks from the module when the filtering device is not in place and to prevent exposure to UV light. Applicant respectfully traverses this rejection.

There is no *prima facie* case of obviousness because the proposed combination cannot be made. When there is no benefit to making a combination, the legally required motivation for making the combination is missing and there is no *prima facie* case of obviousness.

In this instance, there is no benefit to making the combination because *Reisfeld, et al.* already includes the capability of controlling the UV lamps 20, 22. For example, *Reisfeld, et al.* teaches a fan coil control 110 containing the control program necessary to control UV lamps 20, 22 (Column 5, lines 13-16). The fan coil control 110 includes several operational modes 80 that are selectable by a switch 81 (Column 5, lines 20-22). In addition, the fan coil controller 110 may utilize a "tolerance index" or a motion detector to determine whether the conditioned space is occupied and therefore whether the UV lamps 20, 22 need to be turned on (Column 5, lines 40-44). Therefore, adding the switches of *Goldstein* or *Gibson* to the *Reisfeld, et al.* arrangement would be useless or redundant at best because the fan coil control 110 already adequately provides for controlling the UV lamp 20, 22.

Additionally, *Reisfeld, et al.* teaches away from making the proposed combination because the fan coil unit 100 of *Reisfeld, et al.* is attached externally to a ceiling or other structural element

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(Column 4, lines 43-47). That is, the fan coil unit 100 of *Reisfeld, et al.* is not disposed within an interior of the building such as where occupants would reside. Therefore, there is no danger of unwanted exposure to UV light with regard to the *Reisfeld, et al.* arrangement. There would be no motivation to make the proposed combination. As such, claims 1-17 are not obvious.

Further, even if the combination could be made, the references fail to disclose all the features of Applicant's claim 12. For example, claim 12 requires that the inner compartment include a particle filter. *Reisfeld, et al.* fails to disclose this. In fact, the media filter 50 of *Reisfeld, et al.* is clearly a separate component from the modular enclosure 60 of the photocatalytic purifier 10. Therefore, even if the combination could be made, claim 12 is still allowable over the references.

New claim 18 requires that the inner compartment houses a particle filter. New claims 19-22 recite additional features related to the claimed switches. None of these features are shown or suggested by the prior art. Applicant submits that claims 18-22 are in condition for allowance.

Accordingly, all claims are in condition for allowance.

Applicant believes that additional fees in the amount of \$100.00 are required for two claims in excess of twenty. The Commissioner is authorized to charge deposit account number 03-0835 in the name of Carrier Corporation in the amount of \$100.00, as well as for any additional fees or to credit the account for any overpayment.

Respectfully submitted,

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CERTIFICATE OF FACSIMILE

I hereby certify that this Amendment is being facsimile transmitted to the United States Patent and Trademark Office, 571-273-8300 on January 12, 2007.



Theresa M. Palmateer

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